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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,892	09/22/2000	Peter Albert Monta	TER-010	1232
26717	7590	10/04/2004	EXAMINER	
RONALD CRAIG FISH, A LAW CORPORATION			HAN, CLEMENCE S	
PO BOX 820			ART UNIT	
LOS GATOS, CA 95032			PAPER NUMBER	

2665
DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,892

Applicant(s)

MONTA ET AL.

Examiner

Clemence Han

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33, 38 and 42 is/are rejected.
- 7) ☒ Claim(s) 34-37 and 39-41 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 14, 37 and 41 are objected to because of the following informalities:

There are typographical error in the claims. Appropriate correction is required.

In regard to claim 14, “a wide are network” in the first line.

In regard to claims 37 and 41, missing “is” or “are” after “said modem in the first line.

2. Claim 26 is objected to because of the following informalities: The claim 26 is a duplicate of claim 25. Appropriate correction is required.

3. Claims 28, 31 and 34 are objected to because of the following informalities:

In the beginning of the claims, “(First Embodiment)”s are not necessary.

Appropriate correction is required.

4. Claims 28, 31, 34, 35 and 39 are objected to because of the following informalities: An acronym, “iData” was used without its definition. Appropriate correction is required.

5. Claims 36 and 40 are objected to because of the following informalities: An acronym, “DOCSIS” was used without its definition. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2–33, 38 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claim 2, the phrase "and/or" in line 9 renders the claim indefinite because it is unclear whether the limitation is "and" or "or".

9. Regarding claim 3, the phrase "and/or" in line 13 renders the claim indefinite because it is unclear whether the limitation is "and" or "or".

10. Regarding claim 4, the phrase "appropriately" in line 21 renders the claim indefinite because it is unclear what the limitation "packetize ... data appropriately" means.

11. Claim 6 recites the limitation "the program identification codes" in line 3. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 8 recites the limitation "said cherrypicker" in line 1–2. There is insufficient antecedent basis for this limitation in the claim.

13. Regarding claim 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

14. Claim 15 recites the limitation "the program identification codes" in line 6. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 15 recites the limitation "the host" in line 25. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 17 recites the limitation "the program identification codes" in line 7. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 17 recites the limitation "the host" in line 27. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 19 recites the limitation "the same program identification code" in line 4–5. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 20 recites the limitation "said video-on-demand data" in line 7. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 27 recites the limitation "the same program identification code" in line 4. There is insufficient antecedent basis for this limitation in the claim.

21. Claim 28 recites the limitation "the same program identification code" in line 24. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 29 recites the limitation "the host" in line 2. There is insufficient antecedent basis for this limitation in the claim.
23. Claim 30 recites the limitation "the host" in line 12. There is insufficient antecedent basis for this limitation in the claim.
24. Claim 31 recites the limitation "the same program identification code" in line 26. There is insufficient antecedent basis for this limitation in the claim.
25. Claim 32 recites the limitation "the host" in line 2. There is insufficient antecedent basis for this limitation in the claim.
26. Claim 33 recites the limitation "the host" in line 12. There is insufficient antecedent basis for this limitation in the claim.
27. Regarding claim 38 and 42, it is unclear whether a single modem functions as both conventional telephone modem and satellite transmitter or not.

Claim Rejections - 35 USC § 102

28. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

29. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Voit et al. (US Patent 6,798,751).

Regarding claim 1, Voit teaches an IP wrapper circuit 13 (To provide via IP network, IP wrapper circuit is needed. See the bottom portion of Figure 2 for the IP encapsulated data.); a packet switch 19; one or more cherry picker multiplexers 17 (See Figure 14 for the detail showing of a DSLAM that has a multiplexer inside.); and a local area network coupling said IP wrapper to said packet switch and coupling said packet switch to said one or more cherry picker multiplexers (Column 1 Line 34–36 and also see the bottom portion of Figure 2 for the Ethernet headers which are used in LAN).

Allowable Subject Matter

30. Claims 3, 4, 6, 15, 17, 19, 27, 28 and 31 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

31. Claims 2, 5, 7–14, 16, 18, 20–26, 29, 30, 32, 33, 38 and 42 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

32. Claims 34–37 and 39–41 are objected to because of the informalities, but would be allowable if rewritten to overcome the objection.

Conclusion

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to the network in general.

U.S. Patent 5,861,881 to Freeman et al.

U.S. Patent 6,049,823 to Hwang

U.S. Patent 6,772,433 to LaJoie et al.

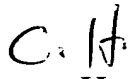
U.S. Pub. 2001/0003846 to Rowe et al.

U.S. Pub. 2003/0101459 to Edson

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Clemence Han
Examiner
Art Unit 2665


HUY D. VU
SUPERVISORY PATENT EXAMINER
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